

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DARRIN D. GROSSKOPF,

Petitioner,

ORDER

v.

11-cv-667-bbc

WILLIAM POLLARD,

Respondent.

In an order entered on October 7, 2011, I denied petitioner Darrin Grosskopf's request for leave to proceed *in forma pauperis* in this habeas corpus action brought pursuant 28 U.S.C. § 2254 finding that he did not qualify for indigent status. Now petitioner has filed a motion to use his release account funds to pay the \$5 filing fee. Petitioner's motion will be denied.

The use of release account funds is governed by state law. *See* Wis. Admin. Code § DOC 309.466. According to § 309.466(2), “[p]rior to release, the department may authorize the disbursement of release account funds for purposes that will aid the inmate’s reintegration into the community or that will reimburse the department for incarceration costs, including legal loans and restitution.” The only exception is that release funds can be used to pay an initial partial filing fee under the 1996 Prison Litigation Reform Act, however petitioner is not subject to the 1996 Prison Litigation Reform Act and there is no other federal law that would require state officials to give him money from his release account to prepay a habeas filing fee. Therefore, this court has no authority to direct prison officials to allow plaintiff access to his release account funds at this time.

Because petitioner has been found ineligible to proceed *in forma pauperis*, if he wishes to continue with this lawsuit, he will have to pay the \$5 filing fee. I will allow petitioner a short extension of time until November 10, 2011 in which to arrange for payment of the fee.

ORDER

IT IS ORDERED petitioner Darrin Grosskopf's motion requesting an order directing payment of his filing fee from his release account funds is DENIED. Petitioner has until November 10, 2011 in which to pay the \$5 filing fee. If he fails to submit the fee by November 10, 2011, his petition will be dismissed for failure to prosecute it.

Entered this 18th day of October, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge